

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4238 of 1986

For Approval and Signature:

Hon'ble ACTING CHIEF JUSTICE MR.JN BHATT
and
Hon'ble MR.JUSTICE A.L.DAVE

- =====
1. Whether Reporters of Local Papers may be allowed : YES
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

DAUDBHAI ALIAS DAVIDBHAI M. MECKWAN

Versus

EDUCATION INSPACTOR

Appearance:

1. Special Civil Application No. 4238 of 1986
MR RM VIN for Petitioner No. 1
M/S MG DOSHIT & CO for Respondent No. 1
NOTICE SERVED for Respondent No. 1,3-4
MR SG BHATT for Respondent No. 2

CORAM : ACTING CHIEF JUSTICE MR.JN BHATT
and
MR.JUSTICE A.L.DAVE

Date of decision: 17/06/2003

ORAL JUDGEMENT

(Per : ACTING CHIEF JUSTICE MR.JN BHATT)

At the time of hearing of this matter, learned Senior Advocate, Mr. Vin, stated that an application for bringing the widow of the deceased-petitioner as heir and legal representative is already filed, but is not traceable. Since he is representing the widow-Urmilaben, she will stand substituted in place of the original petitioner, being the only heir.

The original petitioner was holding the post of Head Master in Taluka Primary School, Dohad. According to the petitioner, his birth date was recorded in the Birth and Death Register of Dohad Kasba and the entry was made on 11th August, 1929 and, accordingly, 11th August, 1929 was entered in the said Register. However, in the school record, the birth date of the original petitioner came to be recorded as 9.8.1928. It is alleged that, it was on erroneous entries in the earlier schools. It is, therefore, the case of the original petitioner that in the service record, the birth date should be corrected. However, the school authority has not corrected the birth date. The original petitioner has, therefore, filed this petition for change of birth date in the service record. It has been sought that he is not liable to be superannuated before 9th August, 1987.

It is settled proposition of law that correction of date of birth in the service record, at the fag end, cannot be allowed to be permitted. Once a person has entered in the service on the ground of one birth date and has enjoyed the benefits, he cannot be allowed to contend to correct the birth date to continue in the service for a longer period. It is, therefore, the authority of the school was justified and, obviously, therefore, in exercise of extraordinary constitutional writ remedy, no direction is required to be given. The petition, therefore, deserves to be rejected. Accordingly, it is rejected. Rule is discharged. No order as to costs.

[J.N. BHATT, ACTG. C.J.]

[A. L. DAVE, J.]

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